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HUMAN RIGHTS COMMITTEE

Sixty-seventh session

SUMMARY RECORD OF THE FIRST PART (PUBLIC)* OF THE 1796th MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 26 October 1999, at 3 p.m.

Chairperson: Ms. MEDINA QUIROGA

CONTENTS

GENERAL COMMENTS OF THE COMMITTEE (continued)

* The summary record of the second part (closed) of the meeting appears as document CCPR/C/SR.1796/Add.1.

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GE.99-44982 (EXT)

The meeting was called to order at 3.10 p.m.

GENERAL COMMENTS OF THE COMMITTEE (agenda item 7) (continued)

1. The CHAIRPERSON invited Committee members to continue with their consideration of the draft general comment on article 3 (CCPR/C/65/R.10). The first 18 paragraphs, with the exception of paragraph 15, had already been adopted, as had the first three sentences of paragraph 19, on the understanding that the suggestion by Ms. Chanet to rephrase the first sentence in order to make it more precise and to move it to the end of the paragraph was accepted.

Paragraph 19

2. Mr. LALLAH said that the idea contained in the fifth sentence was an important one but could be reworded in such a way as to underscore that it was not poverty that prevented poor women from forming a personal opinion for voting purposes, but the fact that they were women. He suggested, moreover, that that aspect should be dealt with at the end of paragraph 2 of the general comment, rather than in paragraph 19, and that States parties should be urged to take positive steps in all areas of State activity to allow women to exercise their rights under the same conditions as men.

3. Ms. EVATT suggested that the Ccommittee should draw on the wording in paragraph 12 of the general comment (No. 25) on article 25 of the Covenant (HRI/GEN/1/Rev.3) and say that by saying that positive measures should be taken to overcome the difficulties which prevented women from exercising their right to vote effectively. Moreover, the part of the paragraph that dealt with allowing women to form an opinion independently should be reworded.

4. The CHAIRPERSON said that paragraph 19 would be amended in accordance with the suggestions made by Ms. Chanet, Mr. Lallah and Ms. Evatt. Also, a new sentence would be drafted along the lines suggested by Mr. Lallah and would be added to paragraph 2.

5. It was so decided.

6. Paragraph 19, as orally amended, was adopted.

Paragraph 20

7. Ms. CHANET said that since discrimination in employment took on so many forms, it was something of an oversimplification to mention only one example; it would therefore be better not to give any example. Moreover, there seemed to be some confusion in the third sentence of the paragraph, which dealt at the same time with discrimination in employment and with customs and traditions. Finally, she thought that the part of the last sentence between brackets should be deleted.

8. Mr. KLEIN said it might be useful to refer, in the first sentence, to the general comment (No. 18) on non-discrimination. As for the second sentence, it did not fully reflect the specific content of article 26 of the Covenant, and might be revised accordingly.

9. Mr. KRETZMER suggested that the first sentence could say that article 26 established the right to equality before the law with regard not only to the human rights set forth in the Covenant but also to all other rights. Such a wording would extend the principle of equality to aspects other than those regulated by the law.

10. Mr. LALLAH suggested that marriage and residence should be added to the list of examples in the second sentence of the paragraph. Referring to a point made by Ms. Chanet, he pointed out that the third sentence was not intended to establish a link between discrimination in employment and customs and traditions, and any ambiguity on that matter would need to be removed. In the final sentence, the Committee should be more positive and should say that States should take the lead in the areas mentioned, since it was for States, not people, to set a course for change.

11. Mr. SCHEININ said that, in the first sentence, the Committee could usefully borrow the wording from paragraph 12 of its general comment (No. 18) on non-discrimination (HRI/GEN/1/Rev.3) and say, in the second part of the sentence, that article 26 prohibited discrimination in law or in fact in any field regulated and protected by public authorities.

12. Mr. ANDO agreed with Mr. Scheinin's suggestion. Moreover, as article 26 of the Covenant dealt with a right that did not depend on any other right, that fact should be emphasized, and thus no examples should be given that were already contained in paragraphs referring to other articles of the Covenant. Finally, if the Committee decided to mention examples in the last sentence, it should restrict itself to rights not covered by the Covenant.

13. Ms. EVATT also supported Mr. Scheinin's suggestion for the first sentence. With regard to the second sentence, she had no objection to adding examples, as suggested by Ms. Chanet and Mr. Lallah. In the third sentence, the Committee could say that it had often observed that many of the women employed in areas such as domestic work were not protected by legislation guaranteeing equality in working conditions and pay. She also thought it would be wise to move the part of the third sentence on customs and traditions. That point could be dealt with in the last sentence, where the Committee could say that States should initiative programmes to combat behaviour that traditionally discriminated against women.

14. Mr. BHAGWATI supported Mr. Scheinin's suggestion for the first sentence.

15. Mr. HENKIN also supported that suggestion. On the question of examples, the Committee should give as few as possible, since there was always the risk that important examples might be omitted. If the Committee nevertheless decided to give some, it should mention not only laws that provided for some form of discrimination against women but also those that had discriminatory effects.

16. Mr. SOLARI YRIGOYEN said that Mr. Scheinin's suggestion for the first sentence should be taken up, especially as laws did not always respect the principle of equality and as some of them imposed restrictions on it or were overtly discriminatory. With regard to the third sentence, care should be taken not to give the impression that the discrimination against women concerned their access to domestic jobs.

17. Ms. CHANET and Lord COLVILLE agreed with Mr. Scheinin's suggestion on the first sentence.

18. The CHAIRPERSON, summing up the amendments on which there was consensus in the Committee, said that the first sentence would be amended as suggested by Mr. Scheinin. The examples given in the second sentence would only apply to rights not covered in the Covenant. In the third sentence, the Committee would say that it had often observed, in its consideration of the reports of States parties, that a high proportion of women were employed in areas that were not protected by labour laws. The reference to domestic work would be deleted. The last two sentences of the paragraph would be revised along the lines suggested by Mr. Lallah and Ms. Evatt, and the examples in brackets would be deleted.

19. Paragraph 20, as orally amended, was adopted.

Paragraph 21

20. Mr. KRETZMER wondered whether the second sentence in paragraph 21 might not amount to a requirement that States parties should intervene in the independent activities of religious communities. In his opinion, all the major religions recognized differences between men and women.

21. Ms. EVATT said that the first sentence should say that those rights could not be exercised "in a manner inconsistent with ...". The same thinking should be applied in the second sentence, which would resolve the problem raised by Mr. Kretzmer. One could then speak of community practices liable to infringe the right to equal enjoyment by and women of the rights set forth in the Covenant.

22. Mr. SCHEININ said that Mr. Amor's proposal should be looked at again before a decision was taken on that paragraph.. His own suggestion would be to make a distinction between acts of State, on the one hand, and responsibility within communities, on the other. With regard to the first sentence, he fully supported the comments made by Ms. Evatt. He proposed a new wording for the paragraph, based on article 5. The first sentence would read: "The rights of members of minorities acknowledged in article 27 of the Covenant may not be interpreted as implying for any State, group or person any right to violate the right to equal enjoyment by women of all the civil and political rights set forth in the Covenant." The second sentence would read as follows: "States should report on any legislation or administrative practices related to membership of a minority community that might constitute an infringement of article 3." The third sentence would read as follows: "Likewise, States should report on their measures and responsibilities in relation to such cultural or religious practices within minority communities that affect the rights of women." That wording underscored both tolerance of the religious traditions of minorities and the underlying responsibility of the State.

23. Mr. KLEIN said that the Committee's comments were on article 3, and yet the first sentence of paragraph 21 referred to article 27, and the second sentence referred to article 3. He saw no clear connection between those two articles in that context, especially as only certain specific rights were referred to in other paragraphs.

24. The CHAIRPERSON explained that article 27 listed a number of rights, but that the reference to article 3 was necessary insofar as it covered more rights set forth in the Covenant. However, she added that a proposal had already been made to amend that wording. The provisions of article 27, which recognized certain rights for members of communities, should not be interpreted as allowing the latter to violate the other rights of women.

25. Mr. ZAKHIA said that, with regard to minorities, there were two kinds of practice: certain practices that should be prohibited by the State, as they undermined the dignity of women; and others, that, could be accepted provided they were the result of free choice. In that case they would be talking about a voluntary status which could be relinguished. It also had to be borne in mind that States were not in a position to change radically habits that were rooted in custom.

26. Mr. BHAGWATI supported the wording for paragraph 21 proposed by Mr. Scheinin.

27. Mr. HENKIN said he was in general agreement with that wording, but he believed there was some ambiguity in the Covenant with regard to article 3, and especially article 27, with regard to what was known as "State interference" or "action by the State", and that those ideas should be taken into account in redrafting the paragraph.

28. Mr. AMOR said that the first sentence of paragraph 21 was very felicitous, as it set out the issue in terms of principles. However, it had two consequences: on the one hand, the State's obligation to provide information and, on the other, the measures the State take in cases of discrimination or violations of article 3.

He therefore proposed that the first sentence should be kept as it was, with the addition of the following phrase: "States should provide relevant information on cultural practices that violate, or might violate, the provisions of article 3, and should indicate the measures that they have taken or that they intend to take in order to guarantee the right to equal enjoyment by women of all civil and political rights set forth in the Covenant."

29. Ms. EVATT said that she had no objection to Mr. Scheinin's proposal. However, she thought it should be made clear to States that they must refrain from taking any legislative or other measures that might violate the right of women, as members of a minority, to equal enjoyment of their religious, linguistic and cultural rights. She suggested that that point could be included at the beginning of the paragraph in the version proposed by Mr. Scheinin.

30. Mr. LALLAH pointed out that the proposals by Mr. Amor and Mr. Scheinin were very closely connected, and should be brought together. He proposed that, rather than simply referring to article 27 of the Covenant, the text should refer to the rights enjoyed by members of minorities "in respect of their own culture, their own religion and their own language".

31. The CHAIRPERSON observed that the Committee members seemed favour to that amendment. An addition would therefore be made to the first sentence. She invited Mr. Scheinin and Mr. Amor to get together to redraft the second sentence. She would then submit the complete draft to the Committee for its further consideration.

The public part of the meeting rose at 4.10 p.m.